

# The Indiana Prosecutor

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## RECENT DECISIONS

### TOLLING CRIMINAL RULE 4(C) DISMISSAL & REFILEING OF CHARGES

*Stinson v. State*

797 N.E.2d 352

(Ind. Ct. App 10/21/03\_

On July 19, 2001, a Vanderburgh County Superior Court found probable cause to support the filing of charges against Eric Stinson for dealing in cocaine. The court ordered the case transferred to Vanderburgh Circuit Court, set bond, and ordered Stinson to appear for an initial hearing five days later. On July 24, without filing formal charges, the state moved to dismiss the cause which motion was granted. Stinson's bond was released.

On December 10, 2001, the State filed an information charging Stinson with two counts of dealing in cocaine based upon the same allegations that had supported the July 19 probable cause finding. On February 18, 2003, Stinson filed a motion for discharge alleging a violation of Criminal Rule 4(C). That motion was denied and Stinson appealed.

Criminal Rule 4(C) provides that no person shall be held to answer to a criminal charge for a period of greater than one year from the date charges are filed against him or the date of his arrest unless he somehow postpones the proceedings or the court's calendar is congested. The State, therefore, has an affirmative duty to bring a defendant to trial within that one year period unless the defendant is responsible for the delay or the delay is caused by congestion of the court's calendar.

In that the initial charges against Stinson were dismissed, Stinson was held to answer those initial criminal charges for only five days prior to dismissal. Stinson argued on appeal that the period of time between dismissal and his arrest based upon the re-filed charges should accrue against the Criminal Rule one year period. The Court of Appeals did not agree. The Indiana Supreme Court in earlier published opinions has held that while the dismissal and refileing of the same charges does not reset the one-year period for purposes of Criminal Rule 4, it does toll the clock for the actual days between dismissal and refileing or arrest. The defendant's motion for discharge was properly denied.



**PROOF OF *CORPUS DELECTI***

***Shanabarger v. State***

**798 N.E.2d 210**

**(Ind. Ct. App. 10/27/03)**

Ronald Shanabarger confessed numerous times to the intentional killing of his 7-month old son, Tyler. Shanabarger told several persons, including law enforcement officers, that he had wrapped his son's head in plastic wrap and suffocated him. Shanabarger said that he killed Tyler as an act of revenge for his wife's refusal to return from vacation to attend his father's funeral. But even multiple confessions without more, will not support a conviction in Indiana.

A well established rule in Indiana precludes the State from proving a crime based solely upon a defendant's confession. Thus, the admission of a confession into evidence requires some independent evidence of the crime, including evidence of the specific kind of injury and evidence that the injury was caused by criminal conduct. This necessary evidence need not prove beyond a reasonable doubt that a crime was committed. It is sufficient that the State's evidence provide an

inference that a crime was committed.

The evidence presented at Shanabarger's trial, in addition to the defendant's confessions, included evidence that the defendant was home alone with his infant son on the night of the child's death. The child's mother did not check on the child that night when she got home from work, but instead went straight to bed. Evidence was presented that Shanabarger had purchased a \$100,000 insurance policy on his son's life prior to the baby's death. The State's evidence also included pieces of plastic wrap found on the Shanabarger's property which evidence was determined to contain DNA material consistent with Tyler's DNA. The pathologist who conducted the autopsy on Tyler's body was unable to determine whether death occurred as the result of natural causes or purposeful suffocation.

The Court of Appeals in this October 27 decision held that the State had sufficiently demonstrated that Tyler's death was caused by criminal conduct in accord with the *corpus delecti* rule. Shanabarger's conviction was affirmed.